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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1945

No. 66

LOUIS DABNEY SMITH, Petitioner

v.

UNITED STATES OF AMERICA, Respondent

ON CERTIORARI TO

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE FOURTH CIRCUIT

HAYDEN C. COVINGTON

GROVER C. POWELL CURRAN E. COOLEY

Counsel for Petitioner

No. 292

WILLIAM MURRAY ESTEP, Petitioner

v.

UNITED STATES OF AMERICA, Respondent

ON CERTIORARI TO

UNITED STATES CIRCUIT COURT OF APPEALS

FOR THE THIRD CIRCUIT

HAYDEN C. COVINGTON

Counsel for Petitioner

APPENDIX
to Joint Brief for Petitioners

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APPENDIX

Selective Training and Service Act of 1940 as amended

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[EXCERPTS]

Sec. 2. Registration in general.

Except as otherwise provided in this Act, it shall be the duty of every male citizen of the United States, and of every other male person residing in the United States, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and sixty-five, to present himself for and submit for registration at such time or times and place or places, and in such manner and in such age group or groups, as shall be determined by rules and regulations prescribed hereunder.

Sec. 3. Training and service in general.

(a) Except as otherwise provided in this Act, every male citizen of the United States, and every other male person residing in the United States, who is between the ages of eighteen and forty-five at the time fixed for his registration, shall be liable for training and service in the land or naval forces of the United States: . . .

Provided further, That no man shall be inducted for training and service under this Act unless and until he is acceptable to the land or naval forces for such training and service and his physical and mental fitness for such training and service has been satisfactorily determined. . . .

Sec. 5. Persons not required to register; Deferment exemption, and relief from training and service.

(e) (1) The Vice President of the United States, the Governors, and all other State officials chosen by the voters of the entire State, of the several States and Territories, members of the legislative bodies of the United States and of the several States and Territories, judges of the courts of record of the United States and of the several States and Territories and the District of Columbia, shall, while holding such offices, be deferred from training and service under this Act in the land and naval forces of the United States.

(d) Regular or duly ordained ministers of religion, and students who are preparing for the ministry in theological or divinity schools recognized as such for more than one year prior to the date of enactment of this Act, shall be exempt from training and service (but not from registration) under this Act.

(g) Nothing contained in this Act shall be construed to require any person to be subject to combatant training and service in the land or naval forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Any such person claiming such exemption from combatant training and service because of such conscientious objections whose claim is sustained by the local board shall, if he is inducted into the land or naval forces under this Act, be assigned to noncombatant service as defined by the President, or shall, if he is found to be conscientiously opposed to participation in such noncombatant service, in lieu of such induction, be assigned to work of national importance under civilian direction. Any such person claiming such exemption from combatant training and service

because of such conscientious objections shall, if such claim is not sustained by the local board, be entitled to an appeal to the appropriate appeal board provided for in section 10. (a) (2). Upon the filing of such appeal with the appeal board, the appeal board shall forthwith refer the matter to the Department of Justice for inquiry and hearing by the Department or the proper agency thereof. After appropriate inquiry by such agency, a hearing shall be held by the Department of Justice with respect to the character and good faith of the objections of the person concerned, and such person shall be notified of the time and place of such hearing. The Department shall, after such hearing, if the objections are found to be sustained, recommend to the appeal board (1) that if the objector is inducted into the land or naval forces under this Act, he shall be assigned to noncombatant service as defined by the President, or (2) that if the objector is found to be conscientiously opposed to participation in such noncombatant service, he shall in lieu of such induction be assigned to work of national importance under civilian direction. If after such hearing the Department finds that his objections are not sustained, it shall recommend to the appeal board that such objections be not sustained. The appeal board shall give consideration to but shall not be bound to follow the recommendation of the Department of Justice together with the record on appeal from the local board in making its decision. Each person whose claim for exemption from combatant training and service because of conscientious objections is sustained shall be listed by the local board on a register of conscientious objectors.

(h) No exception from registration, or exemption or deferment from training and service, under this Act, shall continue after the cause therefor ceases to exist.

Sec. 10. Rules and regulations; Selective Service System.

(a) The President is authorized—

- (1) to prescribe the necessary rules and regulations to carry out the provisions of this Act;
- (2) to create and establish a Selective Service System, and shall provide for the classification of registrants and of persons who volunteer for induction under this Act on the basis of availability for training and service, and shall establish within the Selective Service System civilian local boards, civilian appeal boards and such other agencies, including agencies of appeal, as may be necessary to carry out the provisions of this Act. There shall be created one or more local boards in each county or political subdivision corresponding thereto of each State, Territory, and the District of Columbia. Each local board shall consist of three or more members to be appointed by the President, from recommendations made by the respective Governors or comparable executive officials. No member of any such local board shall be a member of the land or naval forces of the United States, but each member of any such local board shall be a civilian who is a citizen of the United States residing in the county or political subdivision corresponding thereto in which such local board has jurisdiction under rules and regulations prescribed by the President. Such local boards, under rules and regulations prescribed by the President, shall have power within their respective jurisdictions to hear and determine, subject to the right of appeal to the appeal boards herein authorized all questions or claims with respect to inclusion for, or exemption or deferment from, training and service under this Act of all individuals within the jurisdiction of such local boards. The decisions of such local boards shall be final except where an appeal is authorized and is taken in accordance with such rules and regulations as the President may prescribe. Appeal

boards within the Selective Service System shall be composed of civilians who are citizens of the United States. The decision of such appeal boards shall be final in cases before them on appeal unless modified or changed by the President as provided in the last sentence of section 5 (1) of this Act. No person who is an officer, member, agent or employee of the Selective Service System, or of any such local or appeal board or other agency, shall be excepted from registration, or deferred from training and service, as provided for in this Act, by reason of his status as such officer, member, agent, or employee; . . .

Sec. 11. Penalties.

Any person charged as herein provided with the duty of carrying out any of the provisions of this Act, or the rules or regulations made or directions given thereunder, who shall knowingly fail or neglect to perform such duty, and any person charged with such duty, or having and exercising any authority under said Act, rules, regulations, or directions who shall knowingly make, or be a party to the making, of any false, improper, or incorrect registration, classification, physical or mental examination, deferment, induction, enrollment, or muster, and any person who shall knowingly make, or be a party to the making of, any false statement or certificate as to the fitness or unfitness or liability or nonliability of himself or any other person for service under the provisions of this Act, or rules, regulations, or directions made pursuant thereto; or who otherwise evades registration or service in the land or naval forces or any of the requirements of this Act, or who knowingly counsels, aids, or abets another to evade registration or service in the land or naval forces or any of the requirements of this Act, or of said rules, regulations, or directions, or who in any manner shall knowingly fail or neglect to perform any duty required of him under or in the execution of this Act, or rules or regulations made pursuant

to this Act, or any person or persons who shall knowingly hinder or interfere in any way by force or violence with the administration of this Act or the rules or regulations made pursuant thereto, or conspire to do so, shall upon conviction in the district court of the United States having jurisdiction thereof, be punished by imprisonment for not more than five years or a fine of not more than \$10,000, or by both such fine and imprisonment, or if subject to military or naval law may be tried by court martial, and, on conviction, shall suffer such punishment as a court martial may direct. No person shall be tried by any military or naval court martial in any case arising under this Act unless such person has been actually inducted for training and service prescribed under this Act or unless he is subject to trial by court martial under laws in force prior to the enactment of this Act. Precedence shall be given by courts to the trial of cases arising under this Act.

Selective Service Regulations

[SECOND PRINTING—SECOND EDITION]

615.82 Preparation of cover sheets.

After each registrant in Group 1, Group 2, Group 3, Group 5, or Group 6 listed in the Classification Record (Form 100), the local board shall open an individual file for him by preparing a Cover Sheet (Form 53). These Cover Sheets (Form 53) shall be maintained in a file in the local board. Every paper pertaining to the registrant, except his Registration Card (Form 1) and such other papers and documents as may be designated by the Director of Selective Service shall be filed in his Cover Sheet (Form 53), until authorization to remove it has been received from the Director of Selective Service.

621.1 Mailing Questionnaires.

(a) Except as provided in paragraph (d) of this section, the local board shall mail a Selective Service Questionnaire (Form 40) to each registrant in strict accordance with the order numbers, from the smallest to the largest. Selective Service Questionnaires (Form 40) shall be mailed as rapidly as possible, consistent with the ability of the local board to give them prompt consideration upon their return.

621.4 Claims for, or information relating to, deferment.

(a) The registrant shall be entitled to present all written information which he believes to be necessary to assist the local board in determining his proper classification. Such information should be included in or attached to the Selective Service Questionnaire (Form 40) and may include any documents, affidavits, or depositions. The affidavits and depositions shall be as concise and brief as possible.

(b) Any person other than the registrant who desires

to request the deferment of a registrant may file with the local board an official form of the Selective Service System provided for that purpose. Any such person shall be entitled to present information in support of his request. Such information should be included in or attached to the official form of the Selective Service System and may include any documents, affidavits, or depositions supporting the request.

* * *

622.11 Class I-A: Available for military service.

In Class I-A shall be placed every registrant who, upon classification, has not been placed in Class I-C, Class IV-E, Class I-A-O, or in a deferred class.

622.12 Class I-A-O: Available for noncombatant military service; conscientious objector.

In Class I-A-O shall be placed every registrant who would have been classified in Class I-A but for the fact that he has been found, by reason of religious training and belief, to be conscientiously opposed to combatant military service in which he might be ordered to take human life, but not conscientiously opposed to noncombatant military service in which he could contribute to the health, comfort, and preservation of others.

* * *

622.44 Class IV-D: Minister of religion or divinity student.

(a) In Class IV-D shall be placed any registrant:

- (1) Who is a regular minister of religion, or
- (2) Who is a duly ordained minister of religion, or
- (3) Who is a student preparing for the ministry in a theological or divinity school which has been recognized as such for more than one year prior to the date of enactment of the Selective Training and Service Act of 1940 (September 16, 1940), or
- (4) Who has been accepted for admittance to a theological or divinity school referred to in subparagraph (3) above and who, on a full-time and accelerated

basis under the general direction of such theological or divinity school, is pursuing a course of study required by the theological or divinity school in which he has been accepted for admittance and who has been formally accepted as a candidate for the ministry by the highest authority governing ordination of a recognized church, religious sect, or religious organization.

(b) A "regular minister of religion" is a man who customarily preaches and teaches the principles of religion of a recognized church, religious sect, or religious organization of which he is a member, without having been formally ordained as a minister of religion; and who is recognized by such church, sect, or organization as a minister.

(c) A "duly ordained minister of religion" is a man who has been ordained in accordance with the ceremonial ritual or discipline of a recognized church, religious sect, or religious organization, to teach and preach its doctrines and to administer its rites and ceremonies in public worship; and who customarily performs those duties.

• • •

622.51 Class IV-E: Conscientious objector available for, assigned to, or released from work of national importance.

(a) In Class IV-E shall be placed every registrant who would have been classified in Class I-A but for the fact that he has been found, by reason of religious training and belief, to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to both combatant and noncombatant military service.

• • •

623.1 General principles of classification.

(a) Each registrant shall be classified as soon as practicable after his Selective Service Questionnaire (Form 40) is received by the local board or as soon as practicable after the time allowed for him to return his Selective Service Questionnaire (Form 40) has expired.

(b) It is the local board's responsibility to decide in the first instance the class in which each registrant shall be placed.

(c) In classifying a registrant there shall be no discrimination for or against him because of his race, creed, or color, or because of his membership or activity in any labor, political, religious, or other organization. Each registrant shall receive equal and fair justice.

623.2 Information considered for classification.

The registrant's classification shall be made solely on the basis of the Selective Service Questionnaire (Form 40), Affidavit of Dependent Over 18 Years of Age (Form 40A), Affidavit—Occupational Classification (Form 42), or Affidavit—Occupational Classification (Form 42A), and such other written information as may be contained in his file; provided, however, when a registrant has failed or hereafter fails to return his Selective Service Questionnaire (Form 40) within the time allowed by section 621.2 or when he has failed or hereafter fails to provide the local board with any other information concerning his status which he is requested or required to furnish, the local board shall proceed with his classification without such information. Oral information should not be considered unless it is summarized in writing and the summary placed in the registrant's file. Under no circumstances should the local board rely upon information received by a member personally unless such information is reduced to writing and placed in the registrant's file.

* * *

623.21 Order in which classes are to be considered.

(a) Upon undertaking to classify any registrant, consideration shall be given to the following classes in the order listed and the registrant shall be classified in the first class for which grounds are established:

Class I-C
Class IV-A
Class IV-D
Class IV-B
Class II-C
Class II-B
Class II-A
Class III-D
Class IV-C
Class IV-F (Moral)

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625.1 Opportunity to appear in person.

(a) Every registrant, after his classification is determined by the local board (except a classification which is itself determined upon an appearance before the local board under the provisions of this part), shall have an opportunity to appear in person before the member or members of the local board designated for the purpose if he files a written request therefor within 10 days after the local board has mailed a Notice of Classification (Form 57) to him. Such 10-day period may not be extended, except when the local board finds that the registrant was unable to file such request within such period because of circumstances over which he had no control.

(b) No person other than the registrant may request an opportunity to appear in person before the local board.

(c) If the written request of the registrant to appear in person is filed with the local board within the 10-day period or if it is filed after such 10-day period and the local board finds that the registrant was unable to file such request within such period because of circumstances over which he had no control, the local board shall enter upon the Classification Record (Form 100) the date on which the request was received and the date and time fixed for the registrant to appear and shall promptly mail to the registrant a notice of the time and place fixed for such appearance.

(d) If such a written request of a registrant for an opportunity to appear in person is received after the 10-day period following the mailing of a Notice of Classification (Form 57) to the registrant, the local board, unless it specifically finds that the registrant was unable to file such a request within such period because of circumstances over which he had no control, should advise the registrant, by letter, that the time in which he is permitted to file such a request has expired, and a copy of such letter should be placed in the registrant's file. Under such circumstances, no other record of the disposition of the registrant's request need be made.

625.2 Appearance before local board.

(a) At the time and place fixed by the local board, the registrant may appear in person before the member or members of the local board designated for the purpose. The fact that he does appear shall be entered in the proper place on the Classification Record (Form 100). If the registrant does not speak English adequately, he may appear with a person to act as interpreter for him. No registrant may be represented before the local board by an attorney.

(b) At any such appearance, the registrant may discuss his classification, may point out class or classes in which he thinks he should have been placed, and may direct attention to any information in his file which he believes the local board has overlooked or to which he believes it has not given sufficient weight. The registrant may present such further information as he believes will assist the local board in determining his proper classification. Such information shall be in writing or, if oral, shall be summarized in writing and, in either event, shall be placed in the registrant's file. The information furnished should be as concise as possible under the circumstances. The member or members of the local board before whom the registrant appears may impose such limitations upon the time which the regis-

trant may have for his appearance as they deem necessary.

(c) After the registrant has appeared before the member or members of the local board designated for the purpose, the local board shall consider the new information which it receives and shall again classify the registrant in the same manner as if he had never before been classified, provided that if he has been physically examined by the examining physician, the Report of Physical Examination and Induction (Form 221) already in his file shall be used in case his physical or mental condition must be determined in order to complete his classification.

(d) After the registrant has appeared before the member or members of the local board designated for the purpose, the local board, as soon as practicable after it again classifies the registrant, shall mail notice thereof on the Notice of Classification (Form 57) to the registrant and on Classification Advice (Form 59) to the persons entitled to receive such notice or advice on an original classification under the provisions of section 623.61.

(e) Each such classification shall be followed by the same right of appeal as in the case of an original classification.

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REOPENING REGISTRANT'S CLASSIFICATION

626.1 Classification not permanent.

(a) No classification is permanent.

(b) Each classified registrant shall, within 10 days after it occurs, and any other person should, within 10 days after knowledge thereof, report to the local board in writing any fact that might result in such registrant being placed in a different classification.

(c) The local board shall keep informed of the status of classified registrants. Registrants may be questioned or physically or mentally reexamined, employers may be required to furnish information, police officials or other agencies may be requested to make investigations, and other

steps may be taken by the local board to keep currently informed concerning the status of classified registrants.

626.2 When registrant's classification may be reopened and considered anew.

(a) The local board may reopen and consider anew the classification of a registrant (1) upon the written request of the registrant, the government appeal agent, any person who claims to be a dependent of the registrant, or any interested party in a case involving occupational deferment, if such request is accompanied by written information presenting facts not considered when the registrant was classified which, if true, would justify a change in the registrant's classification; or (2) upon its own motion if such action is based upon facts not considered when the registrant was classified which, if true, would justify a change in the registrant's classification; provided, in either event, the classification of a registrant shall not be reopened after the local board has mailed to such registrant an Order to Report for Induction (Form 150) or an Order to Report for Work of National Importance (Form 50) unless the local board first specifically finds there has been a change in the registrant's status resulting from circumstances over which the registrant had no control.

(b) At any time before the induction of a registrant, the local board shall reopen and consider anew such registrant's classification upon the written request of the State Director of Selective Service or the Director of Selective Service; provided, that after a registrant has left the local board for delivery pursuant to an Order to Report for Work of National Importance (Form 50) the local board shall reopen and consider anew the classification of such registrant only upon the written request of the Director of Selective Service.

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626.3 Refusal to reopen and consider anew registrant's classification.

When a registrant, any person who claims to be a dependent of a registrant, any interested party in a case involving occupational deferment, or the government appeal agent files with the local board a written request to reopen and consider anew the registrant's classification and the local board is of the opinion that the information accompanying such request fails to present any facts in addition to those considered when the registrant was classified or, even if new facts are presented, the local board is of the opinion that such facts, if true, would not justify a change in such registrant's classification, it shall not reopen the registrant's classification. In such a case, the local board, by letter, should advise the person filing the request that the information submitted does not warrant the reopening of the registrant's classification and should place a copy of the letter in the registrant's file. No other record of the receipt of such a request and the action taken thereon is required.

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PROCEDURE FOR TAKING APPEAL**627.11 How appeal to board of appeal is taken.**

(a) Any person entitled to do so may appeal in either of the following ways:

(1) By filing with the local board a written notice of appeal. Such notice need not be in any particular form but must state the name of the registrant and the name and identity of the person appealing so as to show the right of appeal.

(2) By signing the "Appeal to Board of Appeal" on the Selective Service Questionnaire (Form 40).

(b) The local board shall enter on the Classification Record (Form 100) the date on which an appeal is filed.

627.12 Statement of person appealing.

The person appealing may attach to his notice of appeal or to the Selective Service Questionnaire (Form 40) a statement specifying the respects in which he believes the local board erred, may direct attention to any information in the registrant's file which he believes the local board has failed to consider or give sufficient weight, and may set out in full any information which was offered to the local board and which the local board failed or refused to include in the registrant's file.

627.13 Local board to prepare and forward file and DSS**Form 66.**

(b) Immediately upon completion of the actions required by paragraph (a) of this section, the local board shall attach the Individual Appeal Record (Form 66) to the inside of the registrant's Cover Sheet (Form 53) and shall carefully check the registrant's file to make certain that all steps required by the regulations have been taken and that the record is complete. If any facts considered by the local board do not appear in the written information in the file, the local board shall prepare and place in the file a written summary of such facts. In preparing such a summary, the local board should be careful to avoid the expression of any opinion concerning information in the registrant's file and should refrain from including any argument in support of its decision.

627.24 Review by board of appeal.

(a) Except as provided in section 627.51 (c), the board of appeal shall consider appeals in the order in which they are received unless otherwise directed by the Director of Selective Service, in which event, they shall be considered in such order as the Director of Selective Service shall prescribe.

(b) In reviewing the appeal, the board shall not receive or consider any information which is not contained in the record received from the local board except (1) the advisory recommendation from the Department of Justice under section 627.25, and (2) general information concerning economic, industrial, and social conditions.

627.25 Special provisions where appeal involves claim that registrant is a conscientious objector.

(a) If an appeal involves the question of whether or not a registrant is entitled to be sustained in his claim that he is a conscientious objector, the board of appeal shall take the following action:

(1) First determine whether the registrant should be classified in one of the classes set forth in section 623.21 in the order set forth except Class IV-F for physical or mental disability and, if it so determines, it shall place the registrant in such class; or

(2) If it determines that the registrant should not be classified in one of the classes set forth in section 623.21 and the registrant has claimed classification in Class IV-E, determine whether to place the registrant in such class and, if it so determines, it shall place the registrant in Class IV-E; or

(3) If it determines that the registrant should not be classified in one of the classes set forth in section 623.21 and the registrant has not claimed classification in Class IV-E but has claimed classification in Class I-A-O, determine whether to place the registrant in such class and, if it so determines, it shall place the registrant in Class I-A-O; or

(4) If it determines not to place such registrant in one of the classes set forth in section 623.21 or in Class IV-E or in Class I-A-O under the circumstances set forth in subparagraphs (1), (2), or (3) above, it shall transmit the entire file to the United States Attorney for the judicial district in which the office of the

board of appeal is located for the purpose of securing an advisory recommendation from the Department of Justice.

No registrant's file shall be forwarded to the United States Attorney by any board of appeal, and any file so forwarded shall be returned, unless in the "Minutes of Other Actions" on the Selective Service Questionnaire (Form 40) the record shows and the letter of transmittal states that the board of appeal reviewed the file and determined that the registrant should not be classified in one of the classes set forth in section 623.21 (except Class IV-F for physical or mental disability) or in Class IV-E or Class I-A-O under the circumstances set forth in subparagraphs (1), (2), or (3) above.

(b) The Department of Justice shall thereupon make an inquiry and hold a hearing on the character and good faith of the conscientious objections of the registrant. The registrant shall be notified of the time and place of such hearing and shall have an opportunity to be heard. If the objections of the registrant are found to be sustained, the Department of Justice shall recommend to the board of appeal (1) that if the registrant is inducted into the land or naval forces, he shall be assigned to noncombatant service, or (2) that if the registrant is found to be conscientiously opposed to participation in such noncombatant service, he shall be assigned to work of national importance under civilian direction. If the Department of Justice finds that the objections of the registrant are not sustained, it shall recommend to the board of appeal that such objections be not sustained.

(c) Upon receipt of the report of the Department of Justice, the board of appeal shall determine the classification of the registrant, and in its determination it shall give consideration to, but it shall not be bound to follow, the recommendation of the Department of Justice. The board of appeal shall place in the Cover Sheet (Form 53) of the registrant both the letter containing the recommendation

of the Department of Justice and the report of the Hearing Officer of the Department of Justice.

627.26 Decision of board of appeal.

(a) The board of appeal shall classify the registrant, giving consideration to each class in the order in which the local board gives consideration thereto when it classifies a registrant, except that a board of appeal may not place a registrant in Class IV-F because of physical or mental disability unless (1) the registrant has been found by the local board or the armed forces to be disqualified for any military service because of physical or mental disability, and (2) the board of appeal has determined that the registrant is not entitled to any other deferred classification.

(b) Such classification of the registrant shall be final, except where an appeal to the President is taken; provided, however, that this shall not be construed as prohibiting a local board from changing the classification of a registrant in a proper case under the provisions of part 626.

628.1 Who may appeal to the President from any determination of a board of appeal.

(a) When either the State Director of Selective Service or the Director of Selective Service deems it to be in the national interest or necessary to avoid an injustice, he may appeal to the President from any determination of a board of appeal. He may take such an appeal at any time.

(b) An appeal to the President may be taken by the Director of Selective Service (1) by mailing to the local board, through the State Director of Selective Service, a written notice of appeal or (2) by placing in the registrant's file a written notice of appeal and, through the State Director of Selective Service, advising the local board thereof.

(c) An appeal to the President may be taken by the State Director of Selective Service (1) by mailing to the local board a written notice of appeal and directing the

local board to forward the registrant's file to him for transmittal to the Director of Selective Service or (2) by placing in the registrant's file a written notice of appeal and advising the local board thereof. Before he forwards the registrant's file to the Director of Selective Service, the State Director of Selective Service shall place in such a file a written statement of his reasons for taking such appeal.

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629.1 Who will be examined.

Every registrant, before he is ordered to report for induction, shall be given a preinduction physical examination under the provisions of this part unless (1) he signs a Request for Immediate Induction (Form 219) or (2) he is a delinquent.

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629.11 Certain registrants may request transfer.

(a) Any registrant who has received an Order to Report—Preinduction Physical Examination (Form 215) and who is so far from his own local board that reporting to his own local board would be a hardship may be transferred for preinduction physical examination (including local board physical examination under section 629.4, when applicable) to the local board having jurisdiction of the area in which he is at that time located.

* * *

629.21 Duty of registrant to report for and submit to pre-induction physical examination.

(a) When the local board mails to a registrant an Order to Report—Preinduction Physical Examination (Form 215), it shall be the duty of the registrant to report for such examination at the time and place fixed in such order unless, after the date the Order to Report—Preinduction Physical Examination (Form 215) is mailed and prior to the time fixed therein for the registrant to report for his preinduction physical examination, the local board cancels such Order to Report—Preinduction Physical Examination

(Form 215) or postpones the time when such registrant shall so report and advises the registrant in writing of such cancellation or postponement.

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(e) Upon reporting for preinduction physical examination, it shall be the duty of the registrant: (1) To follow the instructions of a member or clerk of the local board as to the manner in which he will be transported to the location where his preinduction physical examination will take place, (2) to obey the instructions of the leader or assistant leaders appointed for the group being forwarded for preinduction physical examination, (3) to appear for and submit to such examination as the commanding officer of the induction station shall direct, and (4) to follow the instructions of a member or clerk of the local board as to the manner in which he will be transported on his return trip from the place where his preinduction physical examination takes place.

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629.31 Records returned to local board.

(a) The Commanding Officer of the induction station will return to the local board the following documents concerning registrants forwarded for preinduction physical examination: The original Physical Examination List (Form 217) indicating under column 4 the disposition of each registrant forwarded for preinduction physical examination, the Original, First Copy, and Second Copy of the Report of Physical Examination and induction (Form 221), and all other records forwarded by the local board except the records bearing upon the medical, social, and educational history of the registrant.

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629.33 Action when further serology requested for accepted registrant.

When it is indicated on a registrant's Certificate of Fitness (Form 218) that his serology is other than "Negative" and it is requested that the registrant be given further

serological tests, the local board shall direct the registrant to submit to such further serological tests as may be necessary and it shall be the duty of the registrant to present himself for and submit to such serological tests at the time and place fixed by the local board. The results of such serological tests shall be attached to the Original of the registrant's Report of Physical Examination and Induction (Form 221) and shall be forwarded with the registrant when he is forwarded for induction.

* * *

633.2 Order to Report for Induction (Form 150).

(a) Immediately upon determining which men are to report for induction, the local board shall prepare for each man an Order to Report for Induction (Form 150) in duplicate. The date specified for reporting for induction shall be at least 10 days after the date on which the Order to Report for Induction (Form 150) is mailed. The local board shall mail the original of the Order to Report for Induction (Form 150) to the registrant and shall file the copy in his Cover Sheet (Form 53).

(b) In case of death or extreme emergency to a person in the registrant's immediate family, serious illness of registrant, or other extreme emergency beyond the registrant's control, the local board may, after the Order to Report for Induction (Form 150) has been issued, postpone the time when such registrant shall so report for a period not to exceed 60 days from the date of such postponement, subject, however, in cases of imperative necessity, to one further postponement for a period not to exceed 60 days; and provided also that the Director of Selective Service or any State Director of Selective Service (as to registrants within his State) may, for good cause, at any time prior to the issuance of an Order to Report for Induction (Form 150), order a local board to postpone the issuance of such order until such time as he may deem advisable, or the Director of Selective Service or any State Director of Selective Service (as to registrants within his State) may, for good

cause, at any time after the issuance of an Order to Report for Induction (Form 150), order a local board to postpone the induction of a registrant until such time as he may deem advisable, and no registrant shall be inducted into the land or naval forces during the period of any of such postponements.

(c) The date of issuance and the date of expiration of any period of postponement authorized in paragraph (b) above shall be noted in the "Remarks" column of the Classification Record (Form 100).

(d) Any period of postponement may be terminated before the date of expiration when the issuing authority so directs.

* * *

633.21 Duty of registrant to report for and submit to induction.

(a) When the local board mails to a registrant an Order to Report for Induction (Form 150), it shall be the duty of the registrant to report for induction at the time and place fixed in such order. If the time when the registrant is ordered to report for induction is postponed, it shall be the continuous duty of the registrant to report for induction upon the termination of such postponement and he shall report for induction at such time and place as may be fixed by the local board. Regardless of the time when or the circumstances under which a registrant fails to report for induction when it is his duty to do so, it shall thereafter be his continuous duty from day to day to report for induction to his local board and to each local board whose area he enters or in whose area he remains.

(b) Upon reporting for induction, it shall be the duty of the registrant: (1) to follow the instructions of a member or clerk of a local board as to the manner in which he shall be transported to the location where his induction will be accomplished, (2) to obey the instructions of the leader or assistant leaders appointed for the group being forwarded for induction, (3) to appear at the place where his induc-

tion will be accomplished; (4) to obey the orders of the representatives of the armed forces while at the place where his induction will be accomplished, (5) to submit to induction, and (6) if he is not accepted by the armed forces, to follow the instructions of the representatives of the armed forces as to the manner in which he will be transported on his return trip to the local board.

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652.1 Report of conscientious objector to Director of Selective Service.

(a) When a registrant is classified in Class IV-E and his classification is not under consideration on appearance, reopening, or appeal, and the time in which he is entitled to request an appearance or take an appeal has expired, and his order number is reached in the process of selecting Class I-A and Class I-A-O registrants to report for induction, the local board shall immediately notify the Director of Selective Service on Conscientious Objector Report (Form 48) that the registrant is available for assignment to work of national importance under civilian direction.

(b) Four copies of the Conscientious Objector Report (Form 48) shall be filled out and signed by a member of the local board. Under "Remarks" the local board should add any additional information that might aid in the proper assignment of the registrant. The original and two copies of the Conscientious Objector Report (Form 48) shall be mailed to the State Director of Selective Service and the remaining copy retained in the registrant's Cover Sheet (Form 53). The State Director of Selective Service shall immediately transmit the original and one copy of the Conscientious Objector Report (Form 48) to the Director of Selective Service and shall file the remaining copy.

652.11 Preparation and distribution of Order to Report; delinquency of IV-E registrants.

(a) Upon receipt of an Assignment to Work of National Importance (Form 49) for a registrant, the local board shall

prepare six copies of an Order to Report for Work of National Importance (Form 50). The local board shall then proceed as follows:

- (1) In the case of a registrant classified in Class IV-E, Mail the original of the Order to Report for Work of National Importance (Form 50) to the registrant at least 10 days before the date set for him to report. At the time the registrant leaves the local board for the camp, mail the remaining five copies of the Order to Report for Work of National Importance (Form 50), together with the Original and First Copy of the registrant's Report of Physical Examination and Induction (Form 221), to the camp directors, and retain the Second Copy of the registrant's Report of Physical Examination and Induction (Form 221) in the registrant's Cover Sheet (Form 53).
- (2) In the case of a registrant discharged from the land or naval forces because of conscientious objections which make him unadaptable for military service, Mail or deliver to the registrant before the time set for him to report, the original of the Order to Report for Work of National Importance (Form 50). At the time the registrant leaves the local board for the camp, mail the remaining five copies of the Order to Report for Work of National Importance (Form 50), together with a letter explaining the circumstances under which the registrant was ordered to report for work of national importance, to the camp director of such camp. No other records shall be forwarded to the camp director with such registrant.

When an Order to Report for Work of National Importance (Form 50) is mailed or delivered to a registrant as hereinbefore provided, it shall be his duty to comply therewith, to report to the camp at the time and place designated therein, and to thereafter perform work of national importance.

tance under civilian direction for the period, at the place, and in the manner provided by law.

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652.12 Transportation to camp.

(a) When a registrant in Class IV-E reports to the local board for transportation to a camp for work of national importance under civilian direction, the local board shall prepare the necessary Government Requests for Transportation (Standard Form No. 1030) and Government Request for Meals and Lodgings for Civilian Registrants (Form 256) for use by the registrant between the local board and the camp. Except as otherwise provided herein, the local board will follow the same procedure in delivering the registrant to work of national importance under civilian direction as is followed in the case of a registrant delivered for induction into the land or naval forces.

(b) The delivery of a person paroled to work of national importance under civilian direction will be accomplished by the proper prison officials.

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653.11 Reception at camps.

(a) When the assignee has reported to camp, the camp director shall complete the Order to Report for Work of National Importance (Form 50). Four copies of the completed Order to Report for Work of National Importance (Form 50) shall be sent to the Director of Selective Service, one copy will be retained by the camp director. The Director of Selective Service will forward two copies of the Order to Report for Work of National Importance (Form 50) to the appropriate State Director of Selective Service, who will retain one copy for his files and mail the other copy to the local board for filing in the registrant's Cover Sheet (Form 53).

(b) As soon as possible after the assignee has reported to camp, the camp physician shall give him a physical examination and shall determine whether there has been

any change in the assignee's physical or mental condition since his preinduction physical examination. If a camp physician is not available, the camp director, to the extent that he is capable of doing so, shall, by observing and questioning the assignee, make such determination. The camp physician or the camp director, as the case may be, shall, on the bottom of page 4 of the Original and First Copy of the Report of Physical Examination and Induction (Form 221), make a record of such determination.

(c) Irrespective of the determination which is made as a result of the examination of an assignee made under the provisions of paragraph (b) of this section, the camp director shall, on the bottom of page 4 of the Original and First Copy of the Report of Physical Examination and Induction (Form 221), place a statement that a registrant is accepted for work of national importance at the civilian public service camp to which the registrant has been assigned. The statement shall specify the date and place of such acceptance and shall be signed by the camp director who shall retain the First Copy of the Report of Physical Examination and Induction (Form 221) and shall forward the Original to the Director of Selective Service.

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653.12 Duties.

Assignees shall report to the camp to which they are assigned; remain therein until released or transferred elsewhere by proper authority, except when performing assigned duties or on authorized missions or leave outside of camp; perform their assigned duties, promptly and efficiently; keep their persons, clothing, equipment, and quarters neat and clean; conserve and protect Government property; conduct themselves both in and outside of the camp so as to bring no discredit to the individual or the organization; and comply with such camp rules as may be prescribed or such directions as may be issued from time to time by the Director of Selective Service.

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VOL. III OPINION NO. 14

NATIONAL HEADQUARTERS
SELECTIVE SERVICE SYSTEM

SUBJECT: Ministerial status of Jehovah's Witnesses
Facts:

Jehovah's Witnesses claim exemption from training and service and classification in Class IV-D as duly ordained ministers of religion under Section 5 (d), Selective Training and Service Act of 1940 and Paragraph 360, Selective Service Regulations which read as follows:

Section 5 (d):

"Regular or duly ordained ministers of religion, and students who are preparing for the ministry in theological or divinity schools recognized as such for more than one year prior to the date of enactment of this Act, shall be exempt from training and service (but not from registration) under this Act."

Paragraph 360:

"Class IV-D: Minister of religion or divinity student.

a. In class IV-D shall be placed any registrant who is a regular or duly ordained minister of religion or who is a student preparing for the ministry in theological or divinity school recognized as such for more than one year prior to the date of enactment of the Selective Training and Service Act (September 16, 1940).

b. A 'regular minister of religion' is a man who customarily preaches and teaches the principles of religion of a recognized church, religious sect, or religious organization of which he is a member, without having been formally ordained as a minister of religion; and who is recognized by such church, sect, or organization as a minister.

c. A 'duly ordained minister of religion' is a man who has been ordained in accordance with the ceremonial ritual or discipline of a recognized church, religious sect, or religious organization, to teach and preach its doctrines and

to administer its rites and ceremonies in public worship; and who customarily performs those duties."

Question.—May Jehovah's Witnesses be placed in Class IV-D as regular or duly ordained ministers of religion exempt from training and service?

Answer:

1. The Watchtower Bible and Tract Society, Inc., is incorporated under the laws of the State of New York for charitable, religious, and scientific purposes. The unincorporated body of persons known as Jehovah's Witnesses hold in common certain religious tenets and beliefs and recognize as their terrestrial governing organization the Watchtower Bible and Tract Society, Inc. By their adherence to the organization of this religious corporation the unincorporated body of Jehovah's Witnesses are considered to constitute a recognized religious sect.
2. The unusual character of organization of Jehovah's Witnesses renders comparisons with recognized churches and religious organizations difficult. Certain members of Jehovah's Witnesses, by reason of the time which they devote, the dedication of their lives which they have made, the attitude of other Jehovah's Witnesses toward them, and the record kept of them and their work, places them in a position where they may be recognized as having a standing in relation to the organization and the other members of Jehovah's Witnesses, similar to that occupied by regular or duly ordained ministers of other religions.
3. There are those members of Jehovah's Witnesses who devote their full time effort to the manufacture and production of books, pamphlets, and supplies for the religious benefit of Jehovah's Witnesses, the purpose of which is to present the beliefs of Jehovah's Witnesses and to convert others. For their religious services the members of this group receive their subsistence and lodging and in addition a very modest monthly allowance. This group of individuals consists of the office and factory workers at 117 Adams Street, Brooklyn, New York, and of the Bethel family,

which includes workers in the executive offices at 124 Columbia Heights, Brooklyn, New York, and at the Farms. The names of those who form this group are recorded in the executive offices of the Watchtower Bible and Tract Society, Inc. Members of this group who devote their entire time and effort to the publications and supplies of the Society have a standing in relationship to that organization and the other members of Jehovah's Witnesses which brings them within the purview of Section 5 (d) of the Selective Training and Service Act of 1940 and they may be classified in Class IV-D, providing their names appear on the certified official list of such persons transmitted to State Directors of Selective Service by National Headquarters of the Selective Service System.

4. The members of Jehovah's Witnesses who devote their time to the work of teaching the tenets of their religion and in the converting of others to their belief, and who enjoy the esteem of other Jehovah's Witnesses, and are each individually recorded as "pioneers" by the Watchtower Bible and Tract Society, Inc., at its executive offices in Brooklyn, New York, are in a position where they may be recognized as having a standing, in relationship to the organization and to the other members of Jehovah's Witnesses, similar to that occupied by regular or duly ordained ministers in other religions, and such persons who spend all or a substantial part of their time in the work of Jehovah's Witnesses, as set forth above, come within the purview of Section 5 (d) of the Selective Training and Service Act of 1940 and may be classified in Class IV-D, provided that the names of such persons appear on the certified official list of such persons transmitted to State Directors of Selective Service by National Headquarters of the Selective Service System.

5. The members of Jehovah's Witnesses who occupy the capacities are known by the various names of regional servants, zone servants, company servants, sound servants, advertising servants, back-call servants, and by other similar

descriptive titles, devote their time and efforts in varying degrees to the dissemination of the tenets and beliefs of Jehovah's Witnesses. The deference paid to these individuals by other members of Jehovah's Witnesses also varies in a great degree. It is impossible to make a general determination with respect to these persons as to their relationship to Jehovah's Witnesses. Whether or not they stand in the same relationship as regular or duly ordained ministers in other religions must be determined in each individual case by the local board, based upon whether or not they devote their lives in the furtherance of the beliefs of Jehovah's Witnesses, whether or not they perform functions which are normally performed by regular or duly ordained ministers of other religions, and finally, whether or not they are regarded by other Jehovah's Witnesses in the same manner in which regular or duly ordained ministers of other religions are ordinarily regarded.

6. In the case of Jehovah's Witnesses as in the case of all other registrants who claim exemption as regular or duly ordained ministers, the local board shall place in the registrant's file a record of all facts entering into its determination for the reason that it is legally necessary that the record show the basis of the local board's decision.

Lewis B. Hershey,
LEWIS B. HERSHLEY
Deputy Director

Legal

June 12, 1941

File Reference III—Ministers
Sec. 5 (d); Par. 360, S.S.R.

VOL. III OPINION NO. 14 (AMENDED)**NATIONAL HEADQUARTERS
SELECTIVE SERVICE SYSTEM****SUBJECT: Ministerial Status of Jehovah's Witnesses****FACTS:**

Jehovah's Witnesses claim exemption from training and service and classification in Class IV-D as duly ordained ministers of religion under section 5 (d), Selective Training and Service Act of 1940, as amended, and section 622.44, Selective Service Regulations, Second Edition, which read as follows:

Section 5 (d):

"Regular or duly ordained ministers of religion, and students who are preparing for the ministry in theological or divinity schools recognized as such for more than one year prior to the date of enactment of this Act, shall be exempt from training and service (but not from registration) under this Act."

Section 622.44:

"Class IV-D: Minister of religion or divinity student."
(a) In Class IV-D shall be placed any registrant who is a regular or duly ordained minister of religion or who is a student preparing for the ministry in a theological or divinity school which has been recognized as such for more than 1 year prior to the date of enactment of the Selective Training and Service Act (September 16, 1940).

"(b) A 'regular minister of religion' is a man who customarily preaches and teaches the principles of religion of a recognized church, religious sect, or religious organization of which he is a member, without having been formally ordained as a minister of religion; and who is recognized by such church, sect, or organization as a minister.

"(c) A 'duly ordained minister of religion' is a man who has been ordained in accordance with the ceremonial ritual or discipline of a recognized church, re-

ligious sect, or religious organization, to teach and preach its doctrines and to administer its rites and ceremonies in public worship; and who customarily performs those duties."

Question—May Jehovah's Witnesses be placed in Class IV-D as regular or duly ordained ministers of religion exempt from training and service?

Answer:

1. The Watchtower Bible and Tract Society, Inc., is incorporated under the laws of the State of New York for charitable, religious, and scientific purposes. The unincorporated body of persons known as Jehovah's Witnesses hold in common certain religious tenets and beliefs and recognize as their terrestrial governing organization the Watchtower Bible and Tract Society, Inc. By their adherence to the organization of this religious corporation, the unincorporated body of Jehovah's Witnesses are considered to constitute a recognized religious sect.

2. The unusual character of organization of Jehovah's Witnesses renders comparisons with recognized churches and religious organizations difficult. Certain members of Jehovah's Witnesses, by reason of the time which they devote, the dedication of their lives which they have made, the attitude of other Jehovah's Witnesses toward them, and the record kept of them and their work, are in a position where they may be recognized as having a standing in relation to the organization and the other members of Jehovah's Witnesses similar to that occupied by regular or duly ordained ministers of other religions.

3. Members of the Bethel Family are those members of Jehovah's Witnesses who devote their full time and effort to the manufacture and production of books, pamphlets, and supplies for the religious benefit of Jehovah's Witnesses, the purpose of which is to present the beliefs of Jehovah's Witnesses and to convert others. For their religious services, the members of this group receive their

subsistence and lodging and in addition a very modest monthly allowance. This group of individuals consist of the office and factory workers at 117 Adams Street, Brooklyn, New York, and workers in the executive offices at 124 Columbia Heights, Brooklyn, New York, and at the Farms. Pioneers of Jehovah's Witnesses are those members of Jehovah's Witnesses who devote all or substantially all of their time to the work of teaching the tenets of their religion and in the converting of others to their belief. A certified official list of members of the Bethel Family and pioneers is being transmitted to the State Directors of Selective Service by National Headquarters of the Selective Service System simultaneously with the release of this amended Opinion. The members of the Bethel Family and pioneers whose names appear upon such certified official list come within the purview of section 5 (d) of the Selective Training and Service Act of 1940, as amended, and they may be classified in Class IV-D. The status of members of the Bethel Family and pioneers whose names do not appear upon such certified official list shall be determined under the provisions of paragraph 5 of this Opinion.

4. The original paragraph 4 has been consolidated with paragraph 3 of this amended Opinion.
5. The members of Jehovah's Witnesses, known by the various names of members of the Bethel Family, pioneers, regional servants, zone servants, company servants, sound servants, advertising servants, and back-call servants, devote their time and efforts in varying degrees to the dissemination of the tenets and beliefs of Jehovah's Witnesses. The deference paid to these individuals by other members of Jehovah's Witnesses also varies in a great degree. It is impossible to make a general determination with respect to these persons as to their relationship to Jehovah's Witnesses. Whether or not they stand in the same relationship as regular or duly ordained ministers

in other religions must be determined in each individual case by the local board, based upon whether or not they devote their lives in the furtherance of the beliefs of Jehovah's Witnesses, whether or not they perform functions which are normally performed by regular or duly ordained ministers of other religions, and, finally, whether or not they are regarded by other Jehovah's Witnesses in the same manner in which regular or duly ordained ministers of other religions are ordinarily regarded.

6. In the case of Jehovah's Witnesses, as in the case of all other registrants who claim exemption as regular or duly ordained ministers, the local board shall place in the registrant's file a record of all facts entering into its determination for the reason that it is legally necessary that the record show the basis of the local board's decision.

LEWIS B. HERSHEY,
DIRECTOR

LBH/spd

Legal

November 2, 1942

Secs. 5(d), 622.44

DISTRIBUTION "A,B,C,D"

STATE DIRECTOR ADVICE (No. 88)

NATIONAL HEADQUARTERS
SELECTIVE SERVICE SYSTEM
21ST STREET AND C STREET, N. W.
WASHINGTON, D. C.

October 29, 1942

Subject: Official List of Jehovah's Witnesses

It has been deemed advisable to change the policy regarding the addition of names to the revised official list of Bethel Family and Pioneers of Jehovah's Witnesses attached to Memorandum to State Directors No. 381.

All registrants whose names now appear on the list will remain in precisely the same status as previously enunciated, but no further names will be added to the list by this Headquarters.

A new and final list consolidating all former lists and showing the names of Bethel Family and Pioneers of Jehovah's Witnesses, who have heretofore been approved by this Headquarters and who have not subsequently been removed, will be distributed to State Directors at an early date.

Attached, for your information, is copy of letter addressed to the representative of Jehovah's Witnesses, by this Headquarters, further indicating the change in policy with respect to the use of such list.

Opinion No. 14, Volume II, National Headquarters, dated June 12, 1941, has been revised in accordance with the foregoing policy.

Attachment [signed] Lewis B. Hershey
LBH/spd DIRECTOR
DISTRIBUTION "A, B"

LETTER

NATIONAL HEADQUARTERS SELECTIVE SERVICE SYSTEM

21ST STREET AND C STREET, N. W.
WASHINGTON, D.C.

IN REPLYING ADDRESS
THE DIRECTOR OF SELECTIVE SERVICE
AND REFER TO NO.
3-10.26-144

Hayden Covington, Esq.
117 Adams Street
Brooklyn, New York

Subject: List of Members of the Bethel Family
and Pioneers of Jehovah's Witnesses

Dear Mr. Covington:

As stated to you at the conference held in this headquarters on October 22, 1942, the policy of National Headquarters, Selective Service System, in reference to Jehovah's Witnesses, has been revised.

This headquarters has discontinued the practice of placing upon the certified list of the Bethel Family and Pioneers of Jehovah's Witnesses, the names of any additional persons. The general policy promulgated at the time this list was established shall remain in full force and effect, except for this practice.

Registrants now who appear on the list, as of this date, shall remain in the same status as heretofore expressed.

Applications and statements for listing on file in this headquarters and not acted upon, will be forwarded to the appropriate State Directors to be transmitted to the local board having jurisdiction over registrant concerned, to be placed in such registrant's cover sheet.

For the Director,
[signed], Lewis F. Kosch
LEWIS F. KOSCH
Colonel, Field Artillery
Chief, Camp Operations Division

STATE DIRECTOR ADVICE (No. 213-B)

ISSUED: 6/7/44

NATIONAL HEADQUARTERS SELECTIVE SERVICE SYSTEM

SUBJECT: THE MINISTERIAL STATUS OF CERTAIN OF THE OFFICIALS OF SPECIFIED CHURCHES, RELIGIOUS SECTS, OR RELIGIOUS ORGANIZATIONS

INTRODUCTION

Concerning the classification of registrants who claim to be ministers of religion, section 622.44, Selective Service Regulations, provides as follows:

"(a) In Class IV-D shall be placed any registrant:
(1) Who is a regular minister of religion, or
(2) Who is a duly ordained minister of religion, or

* * *

"(b) A 'regular minister of religion' is a man who customarily preaches and teaches the principles of religion of a recognized church, religious sect, or religious organization of which he is a member, without having been formally ordained as a minister of religion; and who is recognized by such church, sect, or organization as a minister.

"(c) A 'duly ordained minister of religion' is a man who has been ordained in accordance with the ceremonial ritual or discipline of a recognized church, religious sect, or religious organization, to teach and preach its doctrines and to administer its rites and ceremonies in public worship; and who customarily performs those duties."

PART I

1. Because of the unusual nature of the organization and work of certain religious groups, National Headquar-

ters has been called, from time to time, to make predeterminations relating to the question of whether a particular group comes within the purview of the Regulations as a recognized church, religious sect, or religious organization.

2. The issuance of a complete list of recognized churches, religious sects, or religious organizations, is not contemplated by this Headquarters. Therefore, the fact that a particular organization is not mentioned in this State Director Advice should not be taken to mean that it is not a recognized church, religious sect, or religious organization.

3. Information will be furnished upon request of any agency of the Selective Service System as to whether a predetermination has been made regarding any particular organization. If no predetermination has been made, a study will be conducted and a predetermination made.

PART II

1. Statements of opinion have been issued occasionally regarding the nature and work of those offices or positions of leadership in a recognized church, religious sect, or religious organization which are generally recognized to be ministerial in nature and function.

2. In part IV of this State Director Advice is listed information relating to certain offices of ministerial function in various organizations. Each organization referred to has been predetermined by National Headquarters to be a recognized church, religious sect, or religious organization within the purview of the Act and the Regulations. The offices of ministerial function of such groups as indicated have been predetermined by National Headquarters to come within the meaning of the Act and the Regulations as offices of regular or duly ordained ministers of religion.

3. The following are the recognized churches, religious sects, or religious organizations concerning which statements of opinion are issued in part IV of this State Director Advice:

- (a) Salvation Army.
- (b) Holy Roman Catholic Church—Lay Brothers.
- (c) Jehovah's Witnesses.
- (d) Church of Christ, Scientist.
- (e) Evangelical Lutheran Synod of Missouri, Ohio, and Other States—Christian Day School Teachers.
- (f) Evangelical Lutheran Joint Synod of Wisconsin and Other States—Christian Day School Teachers.
- (g) Jewish Congregations—Cantors.
- (h) Volunteers of America.
- (i) Church of Jesus Christ of Latter Day Saints (Mormon).
- (j) Seventh-day Adventist Church—Colporteurs and Day School Teachers.

PART III

1. Whether a registrant who qualifies under the statements hereinbefore made, is actually engaged in the regular discharge of his duties as a regular or duly ordained minister of religion must be determined in each individual case by the local board or agency of appeal.
2. It is the opinion of National Headquarters that the question of the regular discharge of his duties as a minister is a most important factor in determining whether a registrant should be classified in Class IV-D in accordance with the provisions of paragraphs (b) and (c) of section 622.44 of the Regulations.
3. The historic nature of the ministerial function of a registrant's own religious organization must be taken into consideration in each individual case. In some churches both practice and necessity require the minister to support himself, either partially or wholly, by secular work.
4. In view of the fact that the exemption of regular or duly ordained ministers of religion is a statutory provision of the Act, no particular form of document is specified for the presentation of information concerning such status.

PART IV

1. SALVATION ARMY

Commissioned officers of the Salvation Army are consecrated to their religious beliefs, and occupy with respect to their organization the exalted position held by other ministers in more familiar denominations. The commission granted any commissioned officer of the Salvation Army is an ordination. By reason of the position they occupy and their ordination in such position, registrants who are commissioned officers of the Salvation Army, as they are now constituted, may be considered duly ordained ministers of religion.

2. HOLY ROMAN CATHOLIC CHURCH—Lay Brothers

It appears that Catholic Brothers have made profession of the vows required of them by their respective religious Congregations, such as poverty, chastity, obedience, and are said to devote all of their time to their Congregations. Moreover, when the Selective Training and Service Act was being discussed in Congress, it was made clear that it was intended that the Brothers were included in the purview of the statutory exemption from training and service of regular ministers of religion. It is believed that they are and should be considered "regular ministers of religion."

It has been officially certified to the National Headquarters by an official of the church that:

"I beg to certify that according to the laws of the Church, the term 'Brother' or 'Lay Brother' signifies a regular minister of religion.

"Lay Brothers' in all the canonically approved societies, orders and congregations are religious ministers in the fullest sense of that term as defined in the Code of Canon Law (Canon 488,70). They are deliberately received into an ecclesiastically approved religious order by the profession of the vows of solemn promises of religion; they, as real ministers of religion, may cooperate in the sacred min-

istry of the priests and the salvation of souls, by the performance of the special tasks assigned to them in schools, hospitals, religious institutes, houses of study or elsewhere. "The 'Lay Brothers,' so-called, are not only bound to the obligations of the clerical state (Cfr. Canons 592 and 679) but they also enjoy the very same privileges as clerics (Cfr. 614 and 680)."

3. JEHOVAH'S WITNESSES

Whether an official of the Jehovah's Witnesses group stands in the same relationship to this group as a regular or duly ordained minister in other religions must be determined in each individual case based upon whether he devotes his life in the furtherance of the beliefs of Jehovah's Witnesses, whether he performs functions which are normally performed by regular or duly ordained ministers of other religions, and finally, whether he is regarded by other Jehovah's Witnesses in the same manner in which regular or duly ordained ministers of other religions are ordinarily regarded.

Experience has shown that due to the fact that a large proportion of the members of any Jehovah's Witnesses unit claim to be ministers, special care must be used in applying the above-mentioned tests. Information presented in the case of a registrant who claims to be a minister of the Jehovah's Witnesses group must show facts regarding both his ministerial position and his ministerial activities which clearly justify his exemption as a minister. Certificates, affidavits, or statements of opinion are not necessarily conclusive proof of a ministerial status.

Members of the Bethel Family are those members of Jehovah's Witnesses who devote their full time and effort to the manufacture and production of books, pamphlets, and supplies for the religious benefit of Jehovah's Witnesses, the purpose of which is to present the beliefs of Jehovah's Witnesses and to convert others. For their religious services, the members of this group are said to

receive their subsistence and lodging and in addition a very modest monthly allowance. This group of individuals consists of the office and factory workers at 117 Adams Street, Brooklyn, New York, and workers in the executive offices at 124 Columbia Heights, Brooklyn, New York, and at the Farms.

Pioneers of Jehovah's witnesses are those members of Jehovah's witnesses who devote all or substantially all of their time to the dissemination of the tenets and beliefs of Jehovah's Witnesses.

A certified official list of members of the Bethel Family and Pioneers has been transmitted to the State Directors of Selective Service by National Headquarters as an attachment to the State Director Advice No. 213-C. The members of the Bethel Family and Pioneers whose names appear upon such certified official list were thought at the time the list was issued to come within the purview of section 5 (d) of the Selective Training and Service Act of 1940, as amended, and if they have continued in the same status, they should be classified in Class IV-D. The status of members of the Bethel Family and Pioneers whose names do not appear upon such certified official list shall be determined as herein provided.

Other members of Jehovah's Witnesses, known by the various names of servant to the brethren, company servant, assistant company servant, backcall servant, territory servant, advertising servant, account servant, stock servant, and other servants, devote their time and effort in varying degrees to the dissemination of the tenets and beliefs of Jehovah's Witnesses. Often the servants to the brethren and the company servants are found to be devoting their lives to a work of ministry to the substantial exclusion of secular employment. In such cases, they may be considered for classification into Class IV-D as ministers of religion.

4. CHURCH OF CHRIST, SCIENTIST

Members of the Church of Christ, Scientist, who are Christian Science practitioners whose names appear in the Christian Science Journal as being recognized or certified practitioners may be considered regular ministers of religion.

First and Second Readers, Christian Science lecturers and Christian Science wartime ministers and Readers of the Church of Christ, Scientist, while serving in those capacities, and actually holding such offices, during their designated terms, may be considered regular ministers of religion.

5. EVANGELICAL LUTHERAN SYNOD OF MISSOURI, OHIO AND OTHER STATES— CHRISTIAN DAY SCHOOL TEACHERS

Teachers in the Christian day schools of the Evangelical Lutheran Synod of Missouri, Ohio and Other States may be considered regular ministers of religion if they have devoted their lives to the furtherance of the religious beliefs of the church, if they have been called by a congregation and assigned to teach in a parochial school in the same way the pastor of the congregation is called and if they are regarded by other members of the church in the same manner in which regular ministers are ordinarily regarded.

Regarding such a teacher, it has been stated to this Headquarters by the church that:

"He is called by the Christian congregation in the same way as the pastor is called, and all that is said in Holy Scriptures of the bishop (1 Tim. 3) applies to the regular teacher of the Lutheran day school in his particular work. A teacher of a Lutheran school is called 'for life' by the congregation, and he will not accept the call of another congregation except after due counsel with the congregation which he serves at the time of receiving the new call."

"The office of parochial school teacher was established

after the Reformation. That of the regular Lutheran day-school teacher is part of the office of the holy ministry, inasmuch as he 'labors in the Word and doctrine.' "

6. EVANGELICAL LUTHERAN JOINT SYNOD OF WISCONSIN AND OTHER STATES— CHRISTIAN DAY SCHOOL TEACHERS

Teachers in the Christian Day Schools of the Evangelical Lutheran Joint Synod of Wisconsin and Other States should be considered in exactly the same manner as is provided in such cases with regard to the Evangelical Lutheran Synod of Missouri, Ohio and other States.

7. JEWISH CONGREGATIONS—CANTORS

In an exceptional case, a Jewish congregation may have no ordained rabbi, but instead will accept as rabbi a person who lacks ordination. The person so engaged to act in the capacity of rabbi may be a cantor. In such an instance, the cantor performs virtually all of the functions normally performed by a rabbi, including the giving of advice upon specific questions of Jewish law, the preaching of sermons, the teaching and expounding of the law; and the congregation regards him as their spiritual leader. In such an exceptional case, the cantor may be considered a regular minister of religion.

8. VOLUNTEERS OF AMERICA

The commissioned officers of the Volunteers of America are duly ordained and commissioned after due preparation and a satisfactory examination. It also appears that these commissioned officers customarily preach and teach the principles of religion in accordance with the prescribed form of worship recognized by the organization. Therefore, they may be considered regular or duly ordained ministers of religion.

9. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS (MORMON)

Those registrants who have been ordained in the Melchizedek Priesthood of the Church of Jesus Christ of the Latter Day Saints (Mormon) and who are serving in any of the capacities hereinafter listed, may be considered regular ministers of religion within the meaning of the Act and the Regulations, so long as they hold any of these positions:

- (a) The first presidency of three men.
- (b) The presiding patriarch or quorum of twelve apostles.
- (c) The first seven presidents of seventies.
- (d) The presiding bishopric of the church of three men.
- (e) The president and two counselors of each stake.
- (f) The bishop and two counselors of each ward.
- (g) The president and two counselors of each independent branch.
- (h) The president of each dependent branch.
- (i) The president of each mission.
- (j) Those men who have been ordained as elders of seventies and who hold formal certificates as missionaries.

SEVENTH-DAY ADVENTIST CHURCH COLPORTEURS AND DAY SCHOOL TEACHERS

Members of this church consider their colporteur evangelistic work to be of highest importance in the propagation of the faith. They look upon the men who do this work as engaged in a vocation comparable to the gospel ministry, even though they are not ordained. When a registrant is found to be actually engaged in a bona fide manner in full-time work of this nature and files evidence of possession of a colporteur's license or a colporteur's credentials, he may be considered a regular minister of religion.

The teachers in the day schools of this church are looked upon by members of the denomination as engaged in sacred work comparable to that of the gospel ministry. They are

the religious instructors of the children and youth of the church, and even though they are not ordained, they have given their lives and are devoting their time to the religious activities of the church. Such teachers may be considered regular ministers of religion.

Lewis B. Hershey,
DIRECTOR

STATE DIRECTOR ADVICE (No. 213-B)

ISSUED: 6/7/44
AS AMENDED: 9/25/44

NATIONAL HEADQUARTERS
SELECTIVE SERVICE SYSTEM

SUBJECT: THE MINISTERIAL STATUS OF CERTAIN OF THE OFFICIALS OF SPECIFIED CHURCHES, RELIGIOUS SECTS, OR RELIGIOUS ORGANIZATIONS

INTRODUCTION

Concerning the classification of registrants who claim to be ministers of religion, section 622.44, Selective Service Regulations, provides as follows:

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"(b) A 'regular minister of religion' is a man who customarily preaches and teaches the principles of religion of a recognized church, religious sect, or religious organization of which he is a member, without having been formally ordained as a minister of religion; and who is recognized by such church, sect, or organization as a minister.

"(b) A 'duly ordained minister of religion' is a man who has been ordained in accordance with the cere-

monial ritual or discipline of a recognized church, religious sect, or religious organization, to teach and preach its doctrines and to administer its rites and ceremonies in public worship; and who customarily performs those duties."

PART I

1. Because of the unusual nature of the organization and work of certain religious groups, National Headquarters has been called upon, from time to time, to make predeterminations relating to the question of whether a particular group comes within the purview of the Regulations as a recognized church, religious sect, or religious organization.
2. The issuance of a complete list of recognized churches, religious sects, or religious organizations, is not contemplated by this Headquarters. Therefore, the fact that a particular organization is not mentioned in this State Director Advice should not be taken to mean that it is not a recognized church, religious sect, or religious organization.

3. Information will be furnished upon request of any agency of the Selective Service System as to whether a predetermination has been made regarding any particular organization. If no predetermination has been made, a study will be conducted and a predetermination made.

PART II

1. Statements of opinion have been issued occasionally regarding the nature and work of those offices or positions of leadership in a recognized church, religious sect, or religious organization which are generally recognized to be ministerial in nature and function.

2. In Part IV of this State Director Advice is listed information relating to certain offices of ministerial function in various organizations. Each organization referred to has been predetermined by National Headquarters to be

a recognized church, religious sect, or religious organization within the purview of the Act and Regulations. The offices of ministerial function of such groups as indicated have been predetermined by National Headquarters to come within the meaning of the Act and the Regulations as offices of regular or duly ordained ministers of religion.

3. The following are the recognized churches, religious sects, or religious organizations concerning which statements of opinion are issued in Part IV of this State Director Advice:

- (a) Salvation Army.
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- (e) Evangelical Lutheran Synod of Missouri, Ohio, and Other States—Christian Day School Teachers.
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- (h) Volunteers of America.
- (i) Church of Jesus Christ of Latter Day Saints (Mormon).
- (j) Seventh-day Adventist Church—Colporteurs and Day School Teachers.

PART III

1. Whether a registrant who qualifies under the statements hereinbefore made, is actually engaged in the regular discharge of his duties as a regular or duly ordained minister of religion must be determined in each individual case by the local board or agency of appeal.

2. It is the opinion of National Headquarters that the question of the regular discharge of his duties as a minister is a most important factor in determining whether a registrant should be classified in Class IV-D in accordance with the provisions of paragraphs (b) and (e) of section 622.44 of the Regulations.

3. The historic nature of the ministerial function of a registrant's own religious organization must be taken into consideration in each individual case. In some religious organizations both practice and necessity require the minister to support himself, either partially or wholly, by secular work.

4. In view of the fact that the exemption of regular or duly ordained ministers of religion is a statutory provision of the Act, no particular form of document is specified for the presentation of information concerning such status.

PART IV

1. SALVATION ARMY

Commissioned officers of the Salvation Army are consecrated to their religious beliefs, and occupy with respect to their organization the exalted position held by other ministers in more familiar denominations. The commission granted any commissioned officer of the Salvation Army is an ordination. By reason of the position they occupy and their ordination in such position, registrants who are commissioned officers of the Salvation Army, as they are now constituted, may be considered duly ordained ministers of religion.

2. HOLY ROMAN CATHOLIC CHURCH—Lay Brothers

It appears that Catholic Brothers have made profession of the vows required of them by their respective religious Congregations, such as poverty, chastity, obedience, and are said to devote all of their time to their Congregations. Moreover, when the Selective Training and Service Act was being discussed in Congress, it was made clear that it was intended that the Brothers were included in the purview of the statutory exemption from training and service of regular ministers of religion. It is believed that they are and should be considered "regular ministers of religion."

It has been officially certified to National Headquarters by an official of the Church that:

"I beg to certify that according to the laws of the Church, the term 'Brother' or 'Lay Brother' signifies a regular minister of religion.

"'Lay Brothers' in all the canonically approved societies, orders and congregations are religious ministers in the fullest sense of that term as defined in the Code of Canon Law (Canon 488, 79). They are deliberately received into an ecclesiastically approved religious order by the profession of the vows of solemn promises of religion; they, as real ministers of religion, may cooperate in the sacred ministry of the priests and the salvation of souls, by the performance of the special tasks assigned to them in schools, hospitals, religious institutes, houses of study or elsewhere.

"The 'Lay Brothers,' so-called, are not only bound to the obligations of the clerical state (Cfr. Canons 592 and 679) but they also enjoy the very same privileges as clerics (Cfr. 614 and 680)."

3. JEHOVAH'S WITNESSES

Whether an official of the Jehovah's Witnesses group stands in the same relationship to this group as a regular or duly ordained minister in other religions must be determined in each individual case based upon whether he devotes his life in the furtherance of the beliefs of Jehovah's Witnesses, whether he performs functions which are normally performed by regular or duly ordained ministers of other religions, and finally, whether he is regarded by other Jehovah's Witnesses in the same manner in which regular or duly ordained ministers of other religions are ordinarily regarded.

Experience has shown that due to the fact that a large proportion of the members of any Jehovah's Witnesses unit claim to be ministers, special care must be used in applying the above-mentioned tests. Information presented in the case of a registrant who claims to be a minister of the Jehovah's Witnesses group must show facts regarding

both his ministerial position and his ministerial activities which clearly justify his exemption as a minister. Certificates, affidavits, or statements of opinion are not necessarily conclusive proof of a ministerial status.

Members of the Bethel Family are those members of Jehovah's Witnesses who devote their full time and effort to the manufacture and production of books, pamphlets, and supplies for the religious benefit of Jehovah's Witnesses, the purpose of which is to present the beliefs, of Jehovah's Witnesses and to convert others. For their religious services, the members of this group are said to receive their subsistence and lodging and in addition a very modest monthly allowance. This group of individuals consists of the office and factory workers at 117 Adams Street, Brooklyn, New York, and workers in the executive offices at 124 Columbia Heights, Brooklyn, New York, and at the Farms.

Pioneers of Jehovah's Witnesses are those members of Jehovah's Witnesses who devote all or substantially all of their time to the dissemination of the tenets and beliefs of Jehovah's Witnesses.

A certified official list of members of the Bethel Family and Pioneers has been transmitted to the State Directors of Selective Service by National Headquarters as an attachment to State Director Advice No. 213-C. The members of the Bethel Family and Pioneers whose names appear upon such certified official list were thought at the time the list was issued to come within the purview of section 5 (d) of the Selective Training and Service Act of 1940, as amended, and if they have continued in the same status, they should be classified in Class IV-D. The status of members of the Bethel Family and Pioneers whose names do not appear upon such certified official list shall be determined as herein provided.

Other members of Jehovah's Witnesses, known by the various names of servant to the brethren, company servant, assistant company servant, backcall servant, territory serv-

ant, advertising servant, account servant, stock servant, and other servants, devote their time and effort in varying degrees to the dissemination of the tenets and beliefs of Jehovah's Witnesses. Servants to the brethren and company servants are believed to hold positions of greater responsibility and leadership than the other servants mentioned; however, the status of all of these 'servants' could be determined as herein provided.

4. CHURCH OF CHRIST, SCIENTIST

~~Members of the Church of Christ, Scientist, who are Christian Science practitioners whose names appear in the Christian Science Journal as being recognized or certified practitioners may be considered regular ministers of religion.~~

First and Second Readers, Christian Science lecturers and Christian Science wartime ministers and Readers of the Church of Christ, Scientist, while serving in those capacities, and actually holding such offices, during their designated terms; may be considered regular ministers of religion.

5. EVANGELICAL LUTHERAN SYNOD OF MISSOURI, OHIO AND OTHER STATES— CHRISTIAN DAY SCHOOL TEACHERS

Teachers in the Christian day schools of the Evangelical Lutheran Synod of Missouri, Ohio and Other States may be considered regular ministers of religion if they have devoted their lives to the furtherance of the religious beliefs of the church, if they have been called by a congregation and assigned to teach in a parochial school in the same way the pastor of the congregation is called and if they are regarded by other members of the church in the same manner in which regular ministers are ordinarily regarded.

Regarding such a teacher, it has been stated to this Headquarters by the church that:

"He is called by the Christian congregation in the same way as the pastor is called, and all that is said in Holy Scriptures of the bishop (1 Tim. 3) applies to the regular teacher of the Lutheran day school in his particular part of the work. A teacher of a Lutheran school is called 'for life' by the congregation, and he will not accept the call of another congregation except after due counsel with the congregation which he serves at the time of receiving the new call.

"The office of parochial school teacher was established after the Reformation. That of the regular Lutheran day-school teacher is part of the office of the holy ministry, inasmuch as he 'labors in the Word and doctrine.'"

6. EVANGELICAL LUTHERAN JOINT SYNOD OF WISCONSIN AND OTHER STATES— CHRISTIAN DAY SCHOOL TEACHERS

Teachers in the Christian Day Schools of the Evangelical Lutheran Joint Synod of Wisconsin and Other States should be considered in exactly the same manner as is provided in such cases with regard to the Evangelical Lutheran Synod of Missouri, Ohio and other States.

7. JEWISH CONGREGATIONS—CANTORS

In an exceptional case, a Jewish congregation may have no ordained rabbi, but instead will accept as rabbi a person who lacks ordination. The person so engaged to act in the capacity of rabbi may be a cantor. In such an instance, the cantor performs virtually all of the functions normally performed by a rabbi, including the giving of advice upon specific questions of Jewish law, the preaching of sermons, the teaching and expounding of the law; and the congregation regards him as their spiritual leader. In such an exceptional case, the cantor may be considered a regular minister of religion.

8. VOLUNTEERS OF AMERICA

The commissioned officers of the Volunteers of America are duly ordained and commissioned after due preparation and a satisfactory examination. It also appears that these commissioned officers customarily preach and teach the principles of religion in accordance with the prescribed form of worship recognized by the organization. Therefore, they may be considered regular or duly ordained ministers of religion.

9. CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS (MORMON)

Those registrants who have been ordained in the Melchizedek Priesthood of the Church of Jesus Christ of Latter Day Saints (Mormon) and who are serving in any of the capacities hereinafter listed, may be considered regular ministers of religion within the meaning of the Act and the Regulations, so long as they hold any of these positions:

- (a) The first presidency of three men.
- (b) The presiding patriarch or quorum of twelve apostles.
- (c) The first seven presidents of seventies.
- (d) The presiding bishopric of the church of three men.
- (e) The president and two counselors of each stake.
- (f) The bishop and two counselors of each ward.
- (g) The president and two counselors of each independent branch.
- (h) The president of each dependent branch.
- (i) The president of each mission.
- (j) Those men who have been ordained as elders of seventies and who hold formal certificates as missionaries.

10. SEVENTH-DAY ADVENTIST CHURCH COLPORTEURS AND DAY SCHOOL TEACHERS

Members of this church consider their colporteur evangelistic work to be of highest importance in the propagation of the faith. They look upon the men who do this work

as engaged in a vocation comparable to the gospel ministry, even though they are not ordained. When a registrant is found to be actually engaged in a bona fide manner in full-time work of this nature and files evidence of possession of a colporteur's license or a colporteur's credentials, he may be considered a regular minister of religion.

The teachers in the day schools of this church are looked upon by members of the denomination as engaged in sacred work comparable to that of the gospel ministry. They are the religious instructors of the children and youth of the church, and even though they are not ordained, they have given their lives and are devoting their time to the religious activities of the church. Such teachers may be considered regular ministers of religion.

[signed] Lewis B. Hershey
DIRECTOR.

Letter, January 27, 1942

LETTER

LAW OFFICES OF
HAYDEN COVINGTON
117 ADAMS STREET - BROOKLYN 1 - NEW YORK

January 27, 1942.

Lt. Col. Carlton S. Dargusoh,
Deputy Director,
Selective Service System,
Washington, D. C.

Dear Colonel Dargusoh:

Your letter January 13, file 1-1.13-77, re "Pioneers of Jehovah's witnesses"

Due to the fact that I have been away from the office on an extensive trip to various parts of the country, diligent and prompt answer was prevented to your letter concerning the course of study in the Bible and Bible helps prescribed by the Society with respect to persons admitted to pioneer status by said Society. I have taken the matter up with the Society and they advise:

No specified educational background is required of any individual precedent to admission to the pioneer ranks. However, the Watchtower Bible and Tract Society has provided eighteen and more volumes and publishes the semi-monthly magazine The Watchtower, dealing with doctrinal and prophetic teachings of the Bible and those enrolling are required to have made a thorough study of these and subscribed to such teachings before they are accepted for pioneer service.

The Society maintains "companies", which might be called branch schools, in thousands of towns and cities throughout the United States, under the immediate direction of competent instructors, elders, ministers and "servants", duly appointed by the Society, who regularly, not less than twice each week of the year, give instruction in the Bible. Each session of study is not less than one hour. This is done through conducting studies in the various publications above referred to, together with the Bible.

All persons who have covenanted to do the will of Almighty God and who have been acquainted with or who desire to become acquainted with the prophecies of the Bible, as revealed through the publications of the Society, are invited to and do attend such studies. They are permitted to receive instructions at such "companies" or "schools" above referred to.

Each applicant for pioneer work has attended one or more of these schools for a satisfactory length of time.

One desiring to enter the pioneer ranks must submit an application providing the Society with certain information, showing whether he is a student of the Watchtower magazine and the publications of the Society, for what length of time, whether he is entirely in accord with the explanations of the Bible therein contained and provide other evidence showing how long he has been connected with the local "company" of Jehovah's witnesses and in attendance at such "schools".

If, from such application, the Society is not convinced of the qualification of the applicant in that regard, a further investigation is conducted through the "company servant" and study conductors in charge of the local "company" or "school", before passing on the application.

No specified time is required in study and preparation because of the varying ability of the different ones. The Society, as such, does not maintain so-called "divinity" schools in the manner conducted by the worldly religious institutions because it should be remembered that the Lord Jesus Christ's apostle Peter and many other faithful ministers were not required to and did not attend divinity schools. The apostle Peter was trained as a fisherman until invited by the Lord Jesus to engage in the "ministry" and he and the other apostles were referred to by the officials and religionists of that day as "unlearned and ignorant men". Acts 4:5-13.

To be "ordained" means to be appointed by the proper authority to a position or office to perform the duties specifically assigned. Jehovah's witnesses being selected by Jehovah God, it follows that he is the authority that ordains the servant, as it is written at Isaiah 61:1-3. That scripture states the commission of authority given by the Lord God to those persons. Since Jehovah's witnesses operate in a legal and orderly way through their corporate representative, the Watchtower Bible & Tract Society, Inc., they also receive the earthly ordination hereinafter referred to.

No diploma or certificate, as such, is issued by the "company" or "school" where the person attends. However, after being duly admitted to the pioneer rolls, and demonstrating sincerity and ability over a satisfactory period of time, the Society issues a certificate signed by the Superintendent of Evangelists of the Society, subscribed to before a Notary Public, a sample copy of which is attached hereto, when requested by the pioneer.

There is forwarded to all persons qualifying themselves to act as Jehovah's witnesses, including the pioneers, a printed identification card, containing the signature of the

Letter, July 7, 1943.

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President of the Society, acting for the Society, certifying that the bearer is an ordained minister, a sample of which has been heretofore forwarded to you.

Sincerely,

[signed] Hayden Covington

LETTER

NATIONAL HEADQUARTERS
SELECTIVE SERVICE SYSTEM
21ST STREET AND C STREET, N. W.
WASHINGTON, D. C.

July 7, 1943

IN REPLYING ADDRESS
THE DIRECTOR OF SELECTIVE SERVICE
AND REFER TO NO.

1-6.26-77

Mr. Hayden Covington
117 Adams Street
Brooklyn, New York

Dear Mr. Covington:

May I acknowledge receipt of your letter of June 19, the purpose of which was to recommend to me that I take summary action against Local Board No. 133, Brooklyn, New York. In your correspondence, you have made an effort to establish proper grounds for my taking such action through an analysis of the policy of this Headquarters with regard to registrants who are members of Jehovah's Witnesses. The basis for your recommendation is that Local Board No. 133 has undertaken to reclassify from Class IV-D to Class I-A members of the Bethel Family of Jehovah's Witnesses. I hasten to advise you that the premises upon which you base your recommendation are

Letter, July 7, 1943

not consonant with our philosophy and our interpretation of the law, and I feel that we should make certain statements in this regard.

The Selective Service System is divided into two distinct branches which, for want of better terms, we will call operational and administrative. The operational branch of Selective Service consists primarily of the local board, boards of appeal, and Presidential appeal. The administrative branch of Selective Service consists primarily of National Headquarters and State Headquarters.

With regard to the operational branch, the Selective Training and Service Act of 1940 provides as follows:

"There shall be created one or more local boards in each county or political sub-division corresponding thereto of each State, Territory, and the District of Columbia. . . . Such local boards, under rules and regulations prescribed by the President, shall have power within their respective jurisdictions to hear and determine, subject to the right of appeal to the appeal boards herein authorized, all questions or claims with respect to inclusion for, or exemption or deferment from, training and service under this Act of all individuals within the jurisdiction of such local boards. The decisions of such local boards shall be final except where an appeal is authorized in accordance with such rules and regulations as the President may prescribe."

The operational branch of Selective Service has the power of determining classification of registrants affecting their inclusion for, or exemption or deferment from, training and service.

The administrative branch of Selective Service has no authority to classify individual registrants but rather promulgates rules and regulations prescribed by the President, and generally administers to the conduct of the Selective Service System as a governmental agency.

The Selective Service Act provides that regular or duly ordained ministers of religion shall be exempt from training and service but not from registration under the

Act. In Selective Service Regulations there is an assisting definition with regard to the terms "regular minister of religion" and "duly ordained minister of religion."

This Headquarters was advised that all persons adhering to the principles of Jehovah's Witnesses considered themselves as ministers of religion and, therefore, entitled to exemption. Local boards and appeal agencies, however, did not classify all Jehovah's Witnesses as ministers of religion. In due time the Watchtower Bible and Tract Society, through you, presented this matter for consideration of this Headquarters. You were informed of the opinion of this Headquarters that the Watchtower Bible and Tract Society and Jehovah's Witnesses could be considered as included under the phrase "recognized church, religious sect, or religious organization." You were, however, informed that this Headquarters did not agree that all persons subscribing to any religious belief could be considered as ministers since this was considered contrary to the normal concept and to our concept of ecclesiastical organization. We did feel, however, that Jehovah's Witnesses, being a religious organization, would be entitled to consider some of their members as ministers. We were willing to express this opinion to the Selective Service System and, in order that you might indicate a reasonable number of those who were recognized by your organization as ministers, you were privileged to submit a list of such persons to this Headquarters.

We received the list which you submitted and made it available to the Selective Service System. At the same time we promulgated National Headquarters Opinion No. 14 generally with regard to Jehovah's Witnesses as an organization and to its members with reference to the list which you had submitted and which was made available to the System. National Headquarters Opinion No. 14 is no more than its title implies, an administrative opinion of National Headquarters with regard to members of Jehovah's Witnesses. The official list of Jehovah's Witnesses is no more

than information from National Headquarters as to those members who, within the limited concept of religious organization, are recognized by the Watchtower Bible and Tract Society as ministers. Contrary to your contention, this opinion and list do not constitute "settled principles of law" and do not erect a barrier beyond which the discretion of the local board cannot be exercised. A local board may, in any individual case, substitute its opinion for a general opinion of National Headquarters. Incidentally, and to answer your statement, local boards are not compelled to furnish legal foundations and detailed analyses of the reasoning leading to classification decisions.

Not only in the instant case, but in all cases of classification, information and opinions of National Headquarters bearing upon the classification of registrants are subject to a contrary determination by local boards and appeal agencies. Under the law there is no person, including the Director, who can make decisions of classification binding local boards on "questions or claims with respect to inclusion for, or exemption or deferment from, training and service." Upon such questions the decision of the local board, subject to appeal, is final. Administrative determinations of a purely procedural nature may bind local boards where they do not encroach upon the legal provinces of such boards.

Action may be taken by the administrative branch requesting reopening and reconsideration of a case, taking an appeal, postponing an induction, or requiring other similar action. This does not constitute a determination of the merits of a particular case but merely brings into play certain administrative procedures.

You may expect from this Headquarters a continued administrative consideration of your problems. We are willing to consider for administrative action any individual cases which you may desire to present and which warrant such procedures. We cannot, however, subscribe to your view that we have, by our opinion or by the official list,

deprived any of our local boards or appeal agencies of the authority to determine questions in instances where that authority resides in the local boards and appeal agencies under the provisions of the Selective Service Act.

Sincerely yours,
[signed] Lewis B. Hershey
DIRECTOR

LETTER

OF CONGRESSMAN MARTIN J. KENNEDY
APPEARING IN PRINTED "HEARINGS BE-
FORE THE COMMITTEE ON MILITARY AF-
FAIRS, HOUSE OF REPRESENTATIVES,
SEVENTY-SIXTH CONGRESS, THIRD SES-
SION, on H. R. 10132; Pages 628-630.

HOUSE OF REPRESENTATIVES
Washington, D.C., August 7, 1940.

MILITARY AFFAIRS COMMITTEE,
House of Representatives.

GENTLEMEN: To me it seems imperative that action be taken by your committee to insure that the Wadsworth bill be so modified as to make due provision for the religious life of the American people. As you know the sole provision of the bill in this matter is the President's right to defer the service rendered by ministers of religion actually engaged in ministerial duties. No provision is made for those who are preparing for the ministry: seminarians. Nor is any provision made for those indispensable members of a religious community, whose duties it is to attend to the domestic work of the religious house—the coadjutor brothers. These men make it possible for priests to attend to their proper work.

To me it seems clear that the good of the American

people requires that all these classes—clergymen, seminarians, and Brothers—be exempted from service under the bill.

Many reasons why this statement is true must occur to your mind; let me mention those which seem of weight to me. I shall not offer arguments which might appeal to my coreligionists, but such as must weigh with every thoughtful American.

It is evident to intelligent observers that religion is the backbone of all moral conduct; religion supports authority, teaching respect for law and order. Principles derived from religious moral teaching make the average man an honest man, a law-abiding citizen. Teaching, for example, that God forbids murder under threat of eternal punishment, religious instructors have proposed a motive for avoiding this crime far in excess of any which the state can assign or carry out; and so also of all other crimes. It is, therefore, good public policy to provide for the continued and flourishing existence of religion; I do not, of course, suggest any link with any particular form of religion but an even-handed dealing with all religious bodies.

Religion is one of the needs and demands of the American people. In fact, the bill under discussion may be said to recognize this need since it makes some effort to provide for religious ministers. The precise point is that the provision of this bill in this respect is not adequate.

Granted that religious ministers are to receive some consideration under this bill, consistency and thoroughness require that this consideration (1) amount to total exemption from training and service, and (2) be extended not only to ministers already ordained, but also to the two groups mentioned above, seminarians and Brothers.

Let us take the three points that here suggest themselves in order:

1. Total exemption of ordained clergymen.
2. Total exemption of seminarians.
3. Total exemption of Brothers.

1. Total exemption of ordained clergymen. The American people enjoy the right to exercise freely their right to worship. To do this adequately, each religious group requires and desires that it be possessed of a group of trained religious educators and leaders known as the clergy. The principle, therefore, that each man should serve where he will do the most good and best further his country's interests in time of war requires that in time of war the clergy remain clergy. That is their specialty. There they are most efficient. There they are most needed. It is a well-known adage that "without hope the people perish." And truly this is especially manifest in time of war when the buoyant and hopeful solution of life given by religion alone suffices to lift up fainting spirits.

2. Total exemption of seminarians. The public need for a properly trained clergy already described is a permanent thing, lasting as long as there endures the ineradicable tendency in man toward higher things. To satisfy this permanent need, a continuous stream of trained religious leaders must be entering upon their work. This cannot be if we do not permit our seminaries to continue their normal functioning. For where are we to find our future ministers of religion if not in seminaries? It must be clear that if you take away the seminaries of today you take away the priest, minister, or rabbi of tomorrow. And whether the morrow bring peace or war, we can ill afford to lack spiritual leaders, be they chaplains to encourage and befriend our soldiers or be they pastors who instruct and serve our people.

But it may be objected that there is no intention under the bill of destroying the seminarian class, that all that is required is a temporary interruption of the course pursued by the seminarian. To this objection, let me answer, first that such an interruption of a full year in the midst of a course of study which of its nature is continuous and closely linked would be an immense set-back in the progress of the seminarian toward his goal. Secondly, and this response

is more basic, the objection misses the whole point at issue. That point is precisely this: The seminarian is destined to serve the people as a clergyman, whether in peace or in war. Hence any training of him for other work is a needless waste of time and money.

The measure to be taken, therefore, is one recognizing the principle that an adequate clergy group is a really fundamental necessity in time of war and hence, parallelly, an adequate seminarian group is a real necessity in time of preparation. No bona fide seminarian should be shunted off the course he has entered upon and drafted into some other field of public service, thus deserting the line for which he is best adapted.

This leads us to another seeming objection to my proposal, which, in fact however, has no weight. That is the objection that spurious seminaries and seminarians will suddenly appear all over the country in order that conscription be evaded. Even if some less spirited youths might be tempted to try this ruse, is it not clear that a little careful examination of each institution will quickly reveal which are genuine seminaries containing sincere seminarians and which are so-called seminarians containing opportunists? For, surely, it is a matter of public record in each locality which seminaries have been in existence for a term of years before the war scare sufficient to prove that avoidance of military service had nought to do with their existence. Again, the records of these seminaries will reveal the average number of entrees each year. Only if the number this year notably exceed that of recent years may suspicion be cast on the genuine good intentions of those entering this year.

3. Total exemption of Brothers. We may distinguish two types of Brothers; viz: those who directly serve the people at large for example by teaching, and those who do so indirectly, namely, by directly serving priests or other religious who in turn serve the people directly. I contend that both classes should be totally exempted from military

service and training. This exemption is due to the first class—those who serve the people at large directly—because their functions are necessary both in peace and war. Let us consider the offices performed by the second group a little more closely. These men do the manual work necessary in religious communities and institutions. Their ministrations, given freely, are absolutely necessary, if the priests are to be free to attend to their special work. Hence, the arguments which prove the need of clergy prove likewise the need of these relatively few, but very important members of religious communities. They also ought, therefore, to be exempted.

I hope my suggestions will receive the favorable consideration of the committee.

I would be pleased to have this letter included in the hearings.

Respectfully submitted.

MARTIN J. KENNEDY

EXCERPTS**from Appellee's Brief
Benesch v. Underwood**

Excerpts from Brief of the Appellee in *Benesch v. Underwood*, No. 9271, United States Circuit Court of Appeals for the Sixth Circuit. At page 15 of that brief, footnote 9, *inter alia*, reads:

"The list at National Headquarters was established for the reasons set forth in General Hershey's opinion of June 12, 1941 (R. 14-18), i. e., primarily, because (R. 15) 'The unusual character of organization of Jehovah's witnesses renders comparison with recognized churches and religious organizations difficult.'"

Quoting from pages 17 and 18 of the brief:

"Again, while ministers are exempt from training and service, the decisions of the local draft boards on all claims for exception are, by statute, made final, subject only to review by appeal boards established in accordance with the Act. Consequently, the inclusion of Benesch's name on the list of 'Pioneers' maintained at National Headquarters would not, *ipso facto*, entitle him to classification as a minister; neither could it be made a prerequisite to such classification. The inclusion of a name on the list is, at the most, evidence which may be considered by the local board in classifying the registrant. If it were otherwise, the officials at National Headquarters would be usurping the function which Congress delegated solely to the local board. Consequently, assuming, *arguendo*, that National Headquarters may have been persuaded by the local board's letter to exclude his name, that fact may not be said to have been unfair or prejudicial to Benesch."

SPECIAL PROBLEMS OF CLASSIFICATION

[From *Selective Service in Wartime*, Second Report of the Director of Selective Service, 1941-42, pages 239-241]

Statutory Exemption of Ministers and Theological Students

Freedom to worship is one of the four freedoms for which we fight. Even in days before we realized that our civilization was to be challenged, even to its religious roots, it was felt that regular and duly ordained ministers should be exempted from military duty. There was a natural repugnance toward any proposal for drafting ministers of religion for training and service. The first bill submitted to the Congress contained this provision and was readily accepted. . . .

What is Ordination?

In some of the churches this is a sacrament attended by very elaborate ceremonies which follow prolonged periods of philosophical and theological training and acceptance by a bishop; in other cases it is the simplest ceremonies or acts without any preliminary serious or prolonged theological training. The determinations of this status by the Selective Service System have been generous in the extreme. The question of fact of whether a person was a minister was difficult at times in such groups as the Jehovah's witnesses, but we need not here enter in any detail into that discussion. . . .

As to who constitute regular ministers of religion, a very broad definition of this vocation was formulated for those charged with Presidential appeals as follows:

"The ordinary concept of 'preaching and teaching' is that it must be oral and from the pulpit or platform. Such is not the test. Preaching and teaching have neither loca-

tional nor vocal limitations. The method of transmission of knowledge does not determine its value or effect its purpose or goal. One may preach or teach from the pulpit, from the curbstone, in the fields, or at the residential fronts. He may shout his message 'from housetops' or write it 'upon tablets of stone'. He may give his 'sermon on the mount', heal the eyes of the blind, write upon the sands while a Magdalene kneels, wash disciples' feet or die upon the cross. He may carry his message with the gentleness of a Father Damien to the bedside of the leper, or hurl ink-wells at the devil with all the crusading vigor of a Luther. But if in saying the word or doing the thing which gives expression to the principle of religion, he conveys to those who 'have ears to hear' and 'eyes to see', the concept of those principles, he both preaches and teaches. He may walk the streets in daily converse with those about him telling them of those ideals that are the foundation of his religious conviction, or he may transmit his message on the written or printed page, but he is none the less the minister of religion if such method has been adopted by him as the effective means of inculcating in the minds and hearts of men the principles of religion.

"But to be a 'regular minister' of religion he must have dedicated himself to his task to the extent that his time and energies are devoted to it to the substantial exclusion of other activities and interests. He cannot 'serve God and mammon' and lay claim to a status as a 'regular minister'. To be a 'regular minister' of religion the translation of religious principles into the lives of his fellows must be the dominating factor in his own life, and must have that continuity of purpose and action that renders other purposes and actions 'relatively unimportant'."

Wide Interpretation of Who are Ministers of Religion

The principle was extended to persons who were not, in any strict sense, ministers or priests in any sacerdotal sense. It included Christian Brothers, who are religious, who live in communities apart from the world and devote themselves exclusively to religious teaching; Lutheran lay teachers, who also dedicate themselves to teaching, including religion; to the Jehovah's witnesses, who sell their religious books, and thus extend the Word. It includes lay brothers in Catholic religious orders, and many other groups who dedicate their lives to the spread of their religion. . . .